



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: July 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016266

[REDACTED]

Dear [REDACTED],

On June 5, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's December 11, 2016 eligibility determination notice and January 28, 2017 eligibility determination and plan enrollment notices.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: July 24, 2017

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000016266

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NY State of Health (NYSOH) properly determine that you and your spouse were eligible to purchase a qualified health plan (QHP) at full cost, effective January 1, 2017?

Did NYSOH properly determine that you and your spouse were eligible to receive APTC, effective February 1, 2017?

## Procedural History

On November 23, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH, effective January 1, 2017. The notice also stated that you and your spouse were not eligible to receive advance payments of premium tax credit (APTC) or cost-sharing reductions (CSR) because APTC was paid to your health insurance company in a prior year and NYSOH was unable to ascertain if a federal tax return was filed for that year.

Also on November 23, 2016, NYSOH issued a plan enrollment notice confirming that, as of November 22, 2016, you and your spouse were enrolled in a QHP with a monthly premium of \$874.92, effective January 1, 2017.

On December 2, 2016, you uploaded additional documentation to your NYSOH account [REDACTED]

On December 10, 2016, your NYSOH account was updated.

On December 11, 2016, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to purchase a QHP at full cost, effective as of January 1, 2017.

Also on December 11, 2016, NYSOH issued a plan enrollment notice confirming that, as of December 10, 2016, you and your spouse were enrolled in a QHP with a monthly premium of \$874.92, effective January 1, 2017. The notice also stated that you and your spouse were not eligible to receive APTC or CSR because APTC was paid to your health insurance company in a prior year and NYSOH was unable to ascertain if a federal tax return was filed for that year.

On January 27, 2017, your NYSOH account was updated.

On January 28, 2017, NYSOH issued an eligibility determination notice stating that you and your spouse were eligible to receive up to \$595.00 per month in APTC and CSR, effective March 1, 2017.

Also on January 28, 2017, NYSOH issued a plan enrollment notice confirming that you and your spouse were enrolled in a QHP with a monthly premium of \$279.92 after your monthly APTC was applied to your premium, effective February 1, 2017.

On February 27, 2017, you spoke with NYSOH's Account Review Unit and requested an appeal because you and your spouse were determined not eligible for APTC for the month of January 2017.

On June 5, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

## **Findings of Fact**

A review of the record supports the following findings of fact:

- 1) You testified that you contacted NYSOH to renew your and your spouse's enrollment and financial assistance for 2017. The NYSOH representative informed you that the system reflected that you and your spouse were not eligible for financial assistance.
- 2) According to your NYSOH account, you expect to file a 2017 federal income tax return jointly with your spouse.
- 3) According to your NYSOH account, APTC was paid on your and your spouse's behalf in 2015.

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- 4) You testified that your accountant did not include a tax form when your 2015 federal income tax return was filed.
- 5) You testified that you brought the excluded tax form to the Internal Revenue Service (IRS) in [REDACTED], NY, and uploaded that documentation to your NYSOH account the same day.
- 6) On December 2, 2016, the following documentation was uploaded to your NYSOH account:
  - (a) A 2015 Form 1040X Amended U.S. Individual Income Tax Return stamped, [REDACTED]. [REDACTED]. The return states under explanation of changes, "I am adding on Form 8962 along with a revised ACA Form" [REDACTED]
  - (b) A 2015 Form 8962 Premium Tax Credit (PTC). Line 26 of the form states that your net premium tax credit was \$1,960.00 [REDACTED]
- 7) You testified that you paid the January 2017 health insurance premium of \$874.92, without any financial assistance.
- 8) You testified that you did everything you were supposed to do, you should have been found eligible for a tax credit for January 2017, and should not have had to pay the full premium for that month.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Verification of Eligibility for Advance Payments of the Premium Tax Credit

Generally, NYSOH must conduct annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, such as tax credits and cost-sharing reductions, Medicaid, or Child Health Plus. In such cases, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 CFR § 155.335(a) and (b)).

APTC are generally available to a person who is eligible to enroll in a QHP and (1) expects to have a household income between 138% and 400% of the applicable federal poverty level (FPL), (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements

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to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

People who use APTC to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on NYSOH application) with their actual income (stated on their federal income tax return). Those who take less tax credit in advance than they claim on the tax return may get the rest of it as an income tax refund or have their tax bill reduced. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

NYSOH may not determine a tax filer eligible for APTC if APTC were made on behalf of the tax filer or their spouse, and the tax filer or their spouse did not comply with the requirement to file an income tax return for that year and reconcile the APTC for that period (45 CFR § 155.305(f)(4)).

### Effective Date of APTC Eligibility

For the benefit year of January 1, 2016, or after, NYSOH must implement the eligibility determination for enrollment in a QHP, APTC, and cost-sharing reductions for an initial eligibility determination effective January 1<sup>st</sup> for QHP selections received on or before December 15<sup>th</sup> of the calendar year preceding the benefit year (45 CFR §§ 155.310(f); 155.410(f)(2));

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your spouse were eligible to purchase a QHP at full cost through NYSOH and not eligible for APTC, effective January 1, 2017.

In November and December 2016, you submitted multiple applications to receive financial assistance in 2017 through NYSOH. NYSOH issued eligibility determination notices stating that you and your spouse were eligible to purchase a QHP at full cost through NYSOH and ineligible to receive APTC. The notices further stated that APTC was paid to your health insurance company in a prior year and NYSOH was unable to ascertain if a federal tax return was filed for that year.

Individuals who use APTC to help pay for their health insurance premiums must file a federal income tax return and reconcile their expected household income with their actual household income on that tax return.

NYSOH was unable to confirm through federal and state data sources that you and your spouse filed a federal income tax return for 2015 and reconciled your household income on that tax return.

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Your NYSOH account reflects that you and your spouse received APTC in 2015. You testified you and your spouse filed a 2015 federal income tax return, however, your accountant did not include a tax form when the income tax return was filed with the IRS. Furthermore, you testified and provided documentary proof that you brought the excluded tax form to the IRS in [REDACTED], NY, and that documentation was uploaded to your NYSOH account on the same day.

The record reflects that on December 2, 2016, your 2015 Form 1040X Amended U.S. Individual Income Tax Return and Form 8962 Premium Tax Credit, stamped [REDACTED] were uploaded to your account. The return stated under explanation of changes that you were "adding on Form 8962 along with a revised ACA Form" [REDACTED]

The documentation received by NYSOH on December 2, 2016, established that your 2015 federal income tax return and the necessary forms to reconcile the APTC used by your household in 2015 had been received by the IRS, which you uploaded to your NYSOH account the same day. Therefore, the necessary documentation had been received by NYSOH as of December 2, 2016.

Since the December 11, 2016 eligibility determination notice stated you and your spouse were not eligible for a tax credit, effective January 1, 2017, because you would not be filing a federal tax return, were married and filing separately from your spouse, or you did not file a tax return for an earlier year during which you received APTC is not supported by the record, it is RESCINDED.

The second issue under review is whether NYSOH properly determined that you and your spouse were eligible to receive APTC, effective February 1, 2017.

On January 27, 2017, your NYSOH account was updated, and you and your spouse were determined eligible to receive APTC and CSR. The January 28, 2017 plan enrollment notice confirmed that APTC would be applied to your and your spouse's monthly premium, effective February 1, 2017.

NYSOH must implement the eligibility determination for APTC effective January 1<sup>st</sup> when an individual eligible to receive APTC selects a QHP on or before December 15<sup>th</sup> of the calendar year preceding the benefit year.

The record reflects on November 22, 2016, you and your spouse were enrolled in a QHP, effective January 1, 2017. Furthermore, there was sufficient documentation provided to NYSOH as of December 2, 2016, to render an eligibility determination finding you and your spouse eligible to receive APTC, effective January 1, 2017.

Therefore, the January 28, 2017, eligibility determination notice is MODIFIED to state, in relevant part, that you and your spouse were eligible to receive APTC, effective as of January 1, 2017.

The January 28, 2017 plan enrollment notice is MODIFIED to state that APTC would be applied to your and your spouse's monthly premium effective January 1, 2017.

Your case is RETURNED to NYSOH to ensure that APTC is applied to your and your spouse's January 2017 premium.

## **Decision**

The December 11, 2016 eligibility determination notice is RESCINDED.

The January 28, 2017, eligibility determination notice is MODIFIED to state, in relevant part, that you and your spouse were eligible to receive APTC, effective as of January 1, 2017.

The January 28, 2017 plan enrollment notice is MODIFIED to state that APTC would be applied to your and your spouse's monthly premium effective January 1, 2017.

Your case is RETURNED to NYSOH to ensure that APTC is applied to your and your spouse's January 2017 premium, and to notify you accordingly.

**Effective Date of this Decision:** July 24, 2017

## **How this Decision Affects Your Eligibility**

NYSOH improperly determined that you and your spouse were not eligible for APTC in the month of January 2017.

You and your spouse's case has been returned to NYSOH to ensure that APTC is applied to your January 2017 monthly health insurance premium. NYSOH will notify you once this has been done.

## **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:  
Health Insurance Marketplace  
Attn: Appeals  
465 Industrial Blvd.  
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The December 11, 2016 eligibility determination notice is RESCINDED.

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The January 28, 2017, eligibility determination notice is MODIFIED to state, in relevant part, that you and your spouse were eligible to receive APTC, effective as of January 1, 2017.

The January 28, 2017 plan enrollment notice is MODIFIED to state that APTC would be applied to your and your spouse's monthly premium effective January 1, 2017.

Your case is RETURNED to NYSOH to ensure that APTC is applied to your and your spouse's January 2017 premium, and to notify you accordingly.

NYSOH improperly determined that you and your spouse were not eligible for APTC in the month of January 2017.

You and your spouse's case has been returned to NYSOH to ensure that APTC is applied to your January 2017 monthly health insurance premium. NYSOH will notify you once this has been done.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

**A Copy of this Decision Has Been Provided To:**



**Getting Help in a Language Other than English**

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY – Spanish: 1-877-662-4886).

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

### **Español (Spanish)**

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

### **中文 (Traditional Chinese)**

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

### **Kreyòl Ayisyen (Haitian Creole)**

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

### **中文 (Simplified Chinese)**

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您免费提供相应语种的口译服务。

### **Italiano (Italian)**

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

### **한국어 (Korean)**

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

### **Русский (Russian)**

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

### **العربية (Arabic)**

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يرجى الاتصال بالرقم 1-855-355-5777. يُمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجانًا.

### **বাংলা (Bengali)**

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## **Français (French)**

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

## **हिंदी (Hindi)**

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

## **日本語 (Japanese)**

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

## **नेपाली (Nepali)**

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

## **Polski (Polish)**

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

## **Twi (Twi)**

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekeremu a, ye sre wo, fre 1-855-355-5777. ye&tumi ama wo obi a okyerE kasa a woka no ase ama wo kwa a wontua hwee.

## **(Urdu) اردو**

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

## **Tiếng Việt (Vietnamese)**

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

## **אַײַדיש (Yiddish)**

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דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען אייך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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